



Paper No. 37

OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT
FOURTH FLOOR
1755 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 22202

COPY MAILED

NOV 15 2001

OFFICE OF PETITIONS

In re Application of :
Ishiguro et al. :
Application No. 08/722,144 : DECISION GRANTING PETITION
Filed: 12 December, 1996 :
Attorney Docket No. 2292-038-0 :

This is a decision on the petition, filed on 26 September, 2001, requesting that a Notice of Improper CPA Filing Under 37 CFR 1.53(d), mailed on 26 July, 2001, be withdrawn.

The petition is **GRANTED**.

The above-identified application was filed on 12 December, 1996. On 9 July, 1999, a Continued Prosecution Application (CPA) was filed. On 10 February, 2000, however, a Notice to File Missing Parts of Application (CPA) was mailed, requiring the basic filing fee for the CPA. In reply, on 11 September, 2000, petitioners submitted the CPA filing fee along with a request and payment for a five (5) month extension of the time to reply to the "Notice." Subsequently, on 27 June, 2001, petitioners filed another CPA. In response, on 26 July, 2001, a Notice of Improper CPA Filing Under 37 CFR 1.53(d) was mailed, stating that the CPA filed on 27 June, 2001, was improper because the prior application was filed after 29 May, 2000.¹

Petitioners assert that the first CPA is entitled to a filing date of the date the CPA was deposited, 9 July, 1999, rather than the date the filing fee in the CPA was paid.

¹See 37 CFR 1.53(d).

37 CFR 1.53(d)(2) states that the filing date of a CPA is the date on which a request on a separate paper for an application under 37 CFR 1.53(d) is filed. Therefore, the first CPA was filed on 9 July, 1999, and the second CPA was not improper.

The petition is granted. The "Notice of Improper CPA" mailed on 26 July, 2001, is vacated.

The petition fee of \$130.00 will be refunded to counsel's deposit account, No. 15-0030.

The application is being forwarded to Technology Center 1600 for further processing of the CPA filed on 27 June, 2001.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Douglas I. Wood (703) 308-6918.



Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy